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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/474,539	Applicant(s) SAMRA ET AL.	
	Examiner Andre Boyce	Art Unit 3623	

-- The MAILING DATE of this communication appears on the c ver sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 July 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 11-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 11-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *02 July 2002* is: a)☒ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

1. This Final Office Action is in response to Applicant's amendment filed July 2, 2002. Claim 10 has been cancelled. Claims 5, and 11-18 have been amended. Claims 1-9 and 11-20 are pending.

2. The previously pending objection to the declaration has been withdrawn.

The previously pending objections to the drawing have been withdrawn, and the formal drawings have been approved by the draftsperson.

The previously pending objections to claims 5 and 16 have been withdrawn.

3. Applicant's arguments filed July 2, 2002 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waits et al, U.S. Patent No. 5,721,831 in view of Thearling, U.S. Patent No. 6,240,411.

As per claim 1, Waits et al disclose a method of analyzing the success of a marketing campaign by using results and an original campaign database, comprising profiling results of the marketing campaign against a list of user defined dimensions (see column 1, lines 50-57) which may be defined using analytical models. Waits et al do not disclose assigning a score to the results of the marketing campaign. Thearling discloses models being scored during campaign management (see column 8, lines 48-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include assigning a score to the results in the Waits et al method, as seen in the Thearling method, thus allowing analysts to determine the success of the marketing campaign via comparison to other campaign scores and/or a scoring baseline, thereby increasing the analytical robustness of the method.

As per claim 2, Waits et al disclose comparing accounts targeted by the marketing campaign against those accounts not targeted (market segment, see column 3, lines 30-34). By choosing the appropriate market segment the Waits et al method inherently compares it to the segments not chosen.

As per claim 3, Waits et al disclose selecting the differences between targeted and non-targeted accounts (market segment, see column 3, lines 30-

34). By choosing the appropriate market segment, the Waits et al method inherently differentiates between the segments chosen versus those not chosen.

As per claim 4, Waits et al disclose ensuring that the marketing campaign is reaching a targeted population base (see column 8, lines 59-67). By determining correlations between the success of the campaign and characteristics of the segment chosen, the Waits et al method is ensuring the target population is reached.

As per claim 5, Waits et al disclose capturing graphically, clusters of data built using statistical procedures (see column 3, lines 66-67 and column 4, lines 1-4).

As per claim 6, Waits et al do not explicitly disclose using the user defined dimensions and the campaign results to construct a gains chart. However, Waits et al disclose a graph and statistics option that may be used to display the data in various formats (see column 4, lines 1-8 and Figure 1K), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the construction of a gains chart in the Waits et al method, thus allowing further graphical analysis of the results, thereby increasing the level of analysis.

As per claim 7, Waits et al do not explicitly disclose rank ordering user defined segments. Thearling discloses selecting the order of models for selection (see column 13, lines 35-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include rank

ordering the segments in the Waits et al method, as seen in the Thearling method, thus allowing the user to chose segments more likely to produce the desired campaign response, thereby increasing the accuracy of the Waits et al method.

As per claim 8, Waits et al do not explicitly disclose showing where the model works best. However, Waits et al disclose drawing a correlation between success of a campaign and characteristics of the segment (see column 8, lines 62-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include showing where the model works best in the Waits et al method, thus defining the most successful campaign segment, and supplying the user with the most relevant information.

As per claim 9, Waits et al do not explicitly disclose showing where the model performance needs to be addressed. However, Waits et al disclose an investigator who tracks the response of the campaigns and records the data (see column 5, lines 16-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include showing where the model performance needs to be addressed in the Waits et al Method, thus allowing the user to improve future campaigns to increase the response percentage of the method.

Claims 11-12 are rejected based upon the rejection of claim 1, since they are the system claims corresponding to the method claim.

Claims 13-20 are rejected based upon the rejections of claims 2-9 respectively, since they are the system claims corresponding to the method claims.

Response to Arguments

6. In the Remarks, Applicant argues with regard to claims 1 and 11, that neither Waits et al nor Thearling, considered alone or in combination, describe or suggest a method of analyzing the success of a marketing campaign that uses campaign results and an original campaign database such that the method includes profiling results of the marketing campaign against a list of user defined dimensions wherein the dimensions may be derived using analytical models, and assigning a score to the results of the marketing campaign.

The Examiner respectfully resubmits that in combination, Waits et al, in view of Thearling indeed teach the limitations of these claims as seen in the above rejections. As seen in the citation, in the rejection of claim 1, Waits et al (see column 1, lines 50-57) disclose executing a campaign with respect to a segment of the customer database, the segment being a collection of customers sharing common demographic characteristics (i.e. profile, see column 3, lines 35-39). Further, Waits et al analyzes the results of the marketing campaign and modifies the campaign accordingly. By modifying the campaign, the Waits et al method draws correlations between the **success** (emphasis) of the campaign

and the characteristics of the segments, as seen in column 8, lines 64-67. Therefore, the Examiner reasserts that Waits et al disclose a method of analyzing the success of a marketing campaign by using results and an original campaign database, comprising profiling results of the marketing campaign against a list of user defined dimensions which may be defined using analytical models.

With regards to Thearling, the Examiner resubmits that as seen in the above citation, in the rejection of claim 1, Thearling discloses models being scored during campaign management (see column 8, lines 48-53). These scores indeed lend themselves to the success of the model, as seen in column 9, lines 49-52 of Thearling. By determining the likelihood of repeat business, the success of the model is therein determined. Therefore, the Examiner reasserts that Thearling indeed discloses assigning a score to the results of the marketing campaign.

In response to Applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Also, in response to Applicant's

argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Waits et al and Thearling are concerned with analysis of information pertaining to marketing campaigns (see Wait et al column 1, lines 50-57 and Thearling column 15, lines 1-6), and therefore are properly combinable.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (703) 305-1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and After Final communications, and (703) 746-7305 for informal/draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

adb
September 10, 2002

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
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